Shoreline Residential Development
San Juan County Council, First Touch

December 9, 2013

Shoreline Residential Development

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| ... In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. WAC 173-26-241(3)(j): Residential development. Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. WAC 173-26-241(3)(j): Residential development. Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control

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<td>A. Exemptions. The SMA specifically exempts from the substantial development permit requirements the construction of a single-family residence by an owner, contract purchaser or lessee for his or her own use, or the use of his or her family. Such construction and normal appurtenant structures must otherwise conform to this master program including any shoreline variance or conditional use permit requirements of this section. Exempt residential appurtenances are specified in SJCC 18.50.020(G).</td>
<td>A. Regulations – Location and Design.</td>
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<td>2. Where waterfront screening trees are absent, developments on waterfront lots shall cover no more than 50 percent of the width of the lot as measured by the shortest straight line distance from lot line to lot line through the most seaward point of the primary residential structure. Developments with multiple structures shall ensure that the combined width of all the structures does not exceed 50 percent of the width of the single lot. However, on lots less than 80 feet wide at the most seaward point of the proposed residential structure, the structure may cover an area up to 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is maintained. With the exception of patios, pedestrian pathways, ramps and stairs, all appurtenant structures shall be placed</td>
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RCW 90.58.020 Legislative findings-State policy

1. Exemptions. The SMA specifically exempts from the substantial development permit requirements the construction of a single-family residence by an owner, contract purchaser or lessee for his or her own use, or the use of his or her family. Such construction and normal appurtenant structures must otherwise conform to this master program including any shoreline variance or conditional use permit requirements of this section. Exempt residential appurtenances are specified in SJCC 18.50.020(G).

2. Regulations – Location and Design.

   A. Location and Design.

   1. Residential development is only allowed landward of the OHWM except as specifically allowed for live-aboard vessels in subsection E.

   2. Where waterfront screening trees are absent, developments on waterfront lots shall cover no more than 50 percent of the width of the lot as measured by the shortest straight line distance from lot line to lot line through the most seaward point of the primary residential structure. Developments with multiple structures shall ensure that the combined width of all the structures does not exceed 50 percent of the width of the single lot. However, on lots less than 80 feet wide at the most seaward point of the proposed residential structure, the structure may cover an area up to 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is maintained. With the exception of patios, pedestrian pathways, ramps and stairs, all appurtenant structures shall be placed.
of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses applicable to divisions of land in shoreline jurisdiction.

Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.

New multifamily residential development, including the subdivision of land for more than four parcels, should provide community and/or public access construction activities. Any such plan shall be prepared by a qualified, licensed professional geotechnical engineer. However, residential structures which will require bulkheads or other shoreline fortifications at the time of construction or in the foreseeable future are prohibited. Evidence that such fortifications will be necessary to protect all or part of the development shall be grounds for denial of all or part of the proposed development.

3. Mobile home courts and parks, and subdivisions for mobile homes, shall not be permitted on shorelines unless all structures can be thoroughly screened from view from both the water and the land by means of natural cover (such as trees and shrubs).

4. Utility lines installed within subdivisions and nonexempt developments shall be placed underground and shall comply with applicable provisions of SJCC 18.50.130 and 18.50.350.

5. Drainage and surface runoff from residential areas shall be controlled so that pollutants will not be carried into water bodies.

6. In all new land divisions and multiple-unit and multifamily developments, one of the following standards shall be met:

a. A common area of 75 feet measured landward of the waterline of a common area, or lots surrounded by a common area that meet all the following criteria:
   a. Are less than 0.3 acres in size;
   b. Where the building sites or lots were approved in a division of land or appurtenant structures shall be placed landward of the primary residential structure. See Figure 5.6

3. Generally, the maximum allowed height for residential structures is 35 feet as determined by the Structural Height Measurement Method set forth in SJCC 18.20. Residential structures exceeding a height of 35 feet shall be allowed only as a conditional use permit. The conditional use permit to exceed the 35 feet in height shall only be approved if the applicant demonstrates that the structure will not result in significant adverse visual impacts, nor interfere with normal, public, visual access to the water. The applicant must also demonstrate that there are compensating factors that make a taller structure desirable from the standpoint of the public interest.

4. Miscellaneous Exceptions. The lot coverage and setback requirements of subsections (A)(2) and (C) of this section shall not apply to designated building sites in a common area, or lots surrounded by a common area that meet all the following criteria:
   a. Are less than 0.3 acres in size;
   b. Where the building sites or lots were approved in a division of land or binding site plan on or before December 31, 1990.
   c. Are circular; and
   d. Are surrounded on all sides by property preserved as a common area or is protected in perpetuity by a conservation easement.

4. Miscellaneous Exceptions. The lot coverage and setback requirements of subsections (A)(2) and (C) of this section shall not apply to designated building sites in a common area, or lots surrounded by a common area that meet all the following criteria:
   a. Are less than 0.3 acres in size;
   b. Where the building sites or lots were approved in a division of land or...
Master programs shall include standards for the creation of new residential lots through land division that accomplish the following:

(i) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

(ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

(iii) Implement the provisions of WAC 173-26-211 and 173-26-221.

b. At least 20 percent of the area within the shoreline jurisdiction shall be designated as common area, and all other common area requirements shall also be met. A minimum of two acres within the shoreline jurisdiction shall be provided for each unit to be located within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of units within the shoreline jurisdiction.

7. In all proposed land divisions and multiple-unit and multifamily developments on shorelines the terrain, access, potential building sites, areas appropriate for common ownership, and special features of the site shall be considered in the design of the development. Allowable densities are maximum densities and are not guaranteed. The approved density shall be determined on a case-by-case basis and shall be based on considerations of topography, protection of natural resources and systems, and the intent and policies of the Shoreline Management Act, the State Environmental Policy Act, the Comprehensive Plan, this code, and this Shoreline Master Program.

The allowed density may be reduced below the maximum if SEPA analysis or other evaluation of the site or area-wide conditions demonstrates that adverse effects of development at the maximum density can be mitigated or avoided by a reduction to the approved density, and no appropriate alternative means of mitigation is available.

8. Land clearing, grading, filling, or alteration of wetlands, natural drainage, and topography for residential construction shall be limited to the area necessary for driveways, buildings, and view and solar access corridors. Cleared surfaces not to be covered with gravel or

5. If a document approving a division of land recorded before the effective date of this SMP, establishes different coverage and setback standards from those in subsections (A)(2) and (C) of this section, the standards on the document approving the division of land shall control.

B. Prohibited Uses and Activities.

1. Except as otherwise provided, new residential structures and appurtenant structures are prohibited over water or floating on the water.

C. Regulations – Setback Standards.

1. As an alternative to the buffer provisions of SJCC 18.50.080 structures located on lakes and bedrock areas of the marine shorelines may be set back 110 feet from the OHWM or top of bank. Coastal geologic buffers on non-bedrock shorelines shall be determined by a geotechnical report that specifies the distance from the top of the bank, (or where there is no bank, the OHWM) the structure must be to ensure that stabilization is not necessary for the life of the structure (75 years).

2. In addition to any required buffers or tree protection zones, there shall be a minimum 50 foot aesthetic setback from the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

3. In addition to any required buffers or tree protection zones, there shall be a minimum 50 foot aesthetic setback from the OHWM or top of bank.
WAC 173-26-221(2)(c)(ii)(C):
C. Do not allow new development that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC 173-26-231.

impervious surfaces shall be replanted promptly with native or compatible plants (i.e., groundcovers or other plant materials adapted to site conditions which will protect against soil erosion). This applies to individual construction and shoreline subdivisions.

Existing vegetation shall be used to visually buffer structures as viewed from the shoreline, public roads, and adjoining properties. All applications for new construction and subdivisions shall indicate any trees to be removed. If trees are to be removed beyond those required to construct a single-family residence, then a tree removal plan shall also be submitted. The plan shall:

a. Identify the proposed building areas and driveways and view and solar access corridors; and

b. Demonstrate how existing natural screening will be retained while providing for construction, views, and sunlight.

Removal of trees smaller than three inches in diameter, as measured four feet above grade, shall not be restricted unless there is evidence that the shoreline is unstable. The removal of smaller trees, brush, and groundcover may be restricted in unstable shorelines.

9. All subdivisions and nonexempt residential developments shall have water supplies adequate so that groundwater quality and quantity are not endangered by over-pumping.

10. All new waterfront subdivisions and multifamily residential developments shall prohibit moorage facilities other than mooring buoys, but allow property owners to seek approval of joint-use moorage facilities to serve the entire subdivision or development.

11. Any parcel which constituted a legal building site prior to the adoption of this master program protection zones, there shall be a minimum 100 foot aesthetic setback from the top of bank or OHWM for residential structures on parcels that lack screening vegetation and/or do not have 21% tree canopy cover within the 75 linear feet between 35 feet landward of the OHWM and 110 feet landward of the OHWM.

4. Residential structures are also subject to the following:

a. If houses on waterfront lots adjoining the project site, existing before the effective date of this ordinance, are closer to the water than the specified minimum setback or buffer and potentially block the view of the proposed residential structure, a lesser setback or buffer may be authorized by the Director if:

   i. Adverse impacts to shoreline critical areas, if any, are assessed by a qualified professional;

   ii. Adverse impacts are mitigated in conformance with SJCC 18.50.090; and

   iii. The authorized buffer and tree protection zones are the greater of:

      A. The waterward side of a line drawn between the most waterward points of the houses on the adjoining lots; and

      B. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   b. If house single family residences on both waterfront lots adjoining the project site, existing before the effective date of this ordinance, are closer to the water than the specified minimum setback or buffer and potentially block the view of the proposed residential structure, a lesser setback or buffer may be authorized by the Director if:

      i. The authorized buffer and tree protection zones are the greater of:

         A. The waterward side of a line drawn between the most waterward points of the houses on the adjoining lots; and

         B. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   c. The authorized buffer and tree protection zones are the greater of:

      A. The waterward side of a line drawn between the most waterward points of the houses on the adjoining lots; and

      B. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   d. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

3. In addition to any required buffers or tree protection zones, there shall be a minimum 100 foot aesthetic setback from the top of bank or OHWM for residential structures on parcels that lack screening vegetation and/or do not have 21% tree canopy cover within tree protection zone 2, the 75 linear feet between 35 feet landward of the OHWM and 110 feet landward of the OHWM.

4. Residential structures are also subject to the following:

   a. If house single family residences on both waterfront lots adjoining the project site, existing before the effective date of this ordinance, are closer to the water than the specified minimum setback or buffer and potentially block the view of the proposed residential structure, a lesser setback or buffer may be authorized by the Director if:

      i. The authorized buffer and tree protection zones are the greater of:

         A. The waterward side of a line drawn between the most waterward points of the houses on the adjoining lots; and

         B. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

      c. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   b. If house single family residences on both waterfront lots adjoining the project site, existing before the effective date of this ordinance, are closer to the water than the specified minimum setback or buffer and potentially block the view of the proposed residential structure, a lesser setback or buffer may be authorized by the Director if:

      i. The authorized buffer and tree protection zones are the greater of:

         A. The waterward side of a line drawn between the most waterward points of the houses on the adjoining lots; and

         B. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

      c. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   d. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   e. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.

   f. The average of the distances from the OHWM to the top of bank (or where there is no bank, the OHWM) for residential structures on parcels that provide screening and maintain a minimum of 21% tree canopy cover in tree protection zone 2.
WAC173-26-231(3)(a)(iii)(A):

(iii) Standards. In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, master programs shall implement the above principles and apply the following standards:

(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

WAC173-26-221(4):

(a) Applicability. Public access includes the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) Principles. Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

shall continue to constitute a legal building site regardless of the density requirements imposed by this master program. All parcels are subject to all other applicable state and County regulations.

12. Construction of a single-family residence for the use of the owner and their family is exempt from substantial development permit requirements in accordance with WAC 173-27-040(2)(g) and SJCC 18.50.020(F). Any other single-family residential construction is subject to shoreline permit requirements. For the purposes of this SMP, the beneficial owner is an individual who is a member of a family corporation, trust, or partnership, and who is related by blood, adoption, marriage or domestic partnership to all other members of the corporation, trust or partnership. In no case shall construction of more than one single-family residence on a single parcel owned by a family be exempt from shoreline permit requirements.

13. Developments on waterfront parcels shall cover no more than 50 percent of the width of the parcel as measured across the seaward face of each building site from side lot line to side lot line. However, on lots less than 80 feet wide at the building line, structures may cover an area up to 40 feet wide as long as a minimum setback of 10 feet from side property boundaries is maintained.

14. The maximum permitted height for residential structures is 28 feet. Residential structures are permitted to exceed this height only when the roof has a minimum 6-in-12 pitch which does not extend beyond a maximum height of 35 feet above the existing grade at the base of the structure. Any residential structure which exceeds a height of 35 feet above existing waterward points of the houses on the adjoining lots.

D. Regulations – Appurtenant structures.

1. With the exception of stairs, pathways and decks, appurtenant structures that are not water-dependent shall be prohibited seaward of the most landward extent of the residence. If this regulation would result in greater adverse impacts on shoreline ecological functions, or would conflict with other applicable regulations of this master program, the Director may authorize an alternative location without requiring a shoreline variance permit after preparing written findings and an administrative determination.

2. Appurtenant structures that are not specified in SJCC 18.50.020(F) as normal appurtenances to a residential use shall be subject to a conditional use permit.

E. Live-aboard Vessels.

1. Location. Live-aboard vessels shall be allowed only within marinas. Live-aboard moorage spaces shall be limited and shall not exceed 25 percent of the total number of slips in a marina.

2. Standards. Live-aboard vessel moorages shall ensure that:
   a. Live-aboard vessels will have access to a sewage pump out facility within a day’s travel;
   b. Live-aboard residents will have access to onsite restrooms; and
   c. Live-aboard residents will have protection zones are the greater of:

A. The waterward side of a line drawn between the most waterward points of the lots; and

B. The average of the distances from the OHWM to the most waterward points of the lots.

D. Regulations – Appurtenant structures.

1. With the exception of stairs, pathways and decks, appurtenant structures that are not water-dependent shall be prohibited seaward of the most landward extent of the residence. If this regulation would result in greater adverse impacts on shoreline ecological functions, or would conflict with other applicable regulations of this master program, the Director may authorize an alternative location without requiring a shoreline variance permit after preparing written findings and an administrative determination.

2. All appurtenant structures shall be subject to setback, buffer, height and lot coverage standards.

32. Appurtenant structures that are not specified in SJCC 18.50.020(F) as normal appurtenances to a residential use shall be subject to a conditional use permit.
(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

WAC 173-26-221(4)(d)(iii):

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221(4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height grade, as measured along a plumb line at any point, shall be permitted only as a conditional use. The applicant must demonstrate that the structure will not result in significant adverse visual impacts, nor interfere with normal, public, visual access to the water. The applicant must also demonstrate that there are compensating factors which make a taller structure desirable from the standpoint of the public interest. Artificially created grades to gain height advantages are prohibited.

15. One garage building and/or one accessory dwelling unit each of which covers no more than 1,000 square feet of land area and is no taller than 16 feet above existing grade as measured along a plumb line at any point; or a combination of these uses in a single structure no larger than 2,000 square feet which is no taller than 16 feet above existing grade as measured along a plumb line at any point; or a combination of these uses in a single structure no larger than 1,000 square feet on each floor and no taller than 28 feet above existing grade.

16. Division of land that would exceed maximum density standards may be allowed by conditional use if the following circumstances are also demonstrated by the owners:

a. The property is not located within a natural shoreline environment designation.

b. The property is occupied by existing, individually owned single-family dwelling units that exceed currently allowable maximum residential density standards and all such units are documented to have existed on the property before May 28, 1976.

access to an onsite potable water supply/system.

F. Regulations by Designation.

1. Natural. Residential development shall be prohibited in the natural designation; provided, that the owner of a lot of record existing before the effective date of this SMP, may construct one single-family residence and appurtenant structures for his or her advantage and Vacation (short-term) rental of the single-family residence or accessory dwelling unit is prohibited. Alteration of natural topography and vegetation shall be restricted to the minimum square footage absolutely necessary for the construction of the structure(s) and access to them. Alteration of the land-water interface is prohibited.

2. Aquatic. Residential development except for allowed live-aboard vessels is prohibited in the aquatic designation.

18.50.110 Land divisions.

A. In addition to the requirements of SJCC 18.70, all land divisions shall be consistent with the following requirements:

1. All applications shall include a site plan demonstrating that new lots will be developable. The site plan shall not constrain future development options.

2. The site plan shall show, where appropriate, the following:

   a. Lot boundaries;
   b. Topography;
   c. Current land cover;
   d. Current trees.

E. Live-aboard Vessels.

1. Location. Live-aboards shall be allowed only within marinas. Live-aboard moorage spaces shall be limited and shall not exceed 25 percent of the total number of slips in a marina.

2. Standards. Live-aboard vessel moorages shall ensure that:

   a. Live-aboard vessels will have access to a sewage pump out facility within a day's travel;
   b. Live-aboard residents will have access to onsite restrooms; and
   c. Live-aboard residents will have access to an onsite potable water supply/system.

F. Regulations by Designation.

1. Natural. Residential development shall be prohibited in the natural designation; provided, that the lot of record existing before the effective date of this SMP, may accommodate construct one single-family residence and appurtenant structures.

   Vacation (short-term) rental of the single-family residence or accessory dwelling unit is prohibited. Alteration of natural topography and vegetation shall be restricted to the minimum square footage absolutely necessary for the construction of the structure(s) and access to them. Alteration of the land-water interface is prohibited.

2. Aquatic. Residential development except for allowed live-aboard vessels is prohibited in the aquatic designation.
limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

c. All the dwelling units have been maintained on the site consistent with nonconforming use standards in WAC 173–14–055, as amended, and have not been abandoned or removed from the property since May 28, 1976.

d. There is no history of use or occupancy other than for residential or vacation residential purposes for the owners’ personal use and that of their nonpaying guests.

e. There is evidence of an adequate approved water supply for each unit accepted in writing by the County sanitarian.

f. There is an approved septic system for each unit or there is documentation that a functioning septic system exists to serve each unit and that adequate drainfield reserve area exists.

g. The proposal is designed to allow the simultaneous transfer or division of each ownership interest in the property.

17. Any conditional use permit granted to allow transfers of individual ownerships in property owned and developed as described in subsection (B)(16) of this section shall include the following conditions, at a minimum:

a. Conditional use permit approval shall not itself constitute a legal division or transfer of land ownership. The property owners must simultaneously effect a legal division or segregation of property attached to each residential unit, under all applicable

e. Trees removed as part of the potential development;

f. At least one potential location for primary and appurtenant structures;

g. Potential location of parking areas and other impervious areas;

h. Potentially graded areas;

i. Potential lawns, gardens etc.;

j. Potential location of joint use dock;

k. Critical areas;

l. Setbacks;

m. Tree protection zones;

n. Habitat buffers;

o. Water quality buffers;

p. Easements or common areas;

q. Potential on-site sewage system;

r. Potential stormwater treatment/infiltration areas;

s. Potential well sites;

t. Potential location of utility lines including water, sewer, power and phone;

u. All streams, ditches, drainage ways, seeps, ponds, wetlands;

v. Areas with slumps, landslides or ongoing soil erosion;

w. Areas of unfractured bedrock;

x. Rocky balds, meadows, fields with wildflowers/native grass or Garry Oak.

3. Land division applications for non-bedrock lots shall provide a geotechnical evaluation, prepared by a qualified professional identifying any setbacks necessary or other conditions to allow for natural erosive processes to occur over the life of the proposed development (75 years) without requiring structural

18.50.110 Land divisions.

A. In addition to the requirements of SJCC 18.70, all land divisions shall be consistent with the following requirements:

7. All applications shall include a site plan demonstrating that new lots will be developable. The site plan shall not constrain future development options;

8. The site plan shall show, where appropriate, the following:

a. Lot boundaries;

b. Topography;

c. Current land cover;

d. Current trees;

e. Trees removed as part of the potential development;

f. At least one potential location for primary and appurtenant structures;

g. Potential location of parking areas and other impervious areas;

h. Potentially graded areas;

i. Potential lawns, gardens etc.;

j. Potential location of joint use dock;

k. Critical areas;

l. Setbacks;

m. Tree protection zones;

n. Habitat buffers;

o. Water quality buffers;

p. Easements or common areas;

q. Potential on-site sewage system;

r. Potential stormwater treatment/infiltration areas;

s. Potential well sites;

t. Potential location of utility lines including water, sewer, power and phone;

u. All streams, ditches, drainage ways;
state and County laws before any transfer of individual units may occur. Such division or segregation must be initiated within two years of the effective date of the conditional use permit.

b. Residential density on the property shall not exceed that expressly provided for in subsection (B)(16) of this section.

c. Residential use and development shall be restricted to single-family units and residential accessories only.

d. The entire parcel owned in common shall be restricted to prohibit a residential density in excess of that made legally nonconforming on May 28, 1976.


19. **Miscellaneous Exceptions.** The lot coverage and setback requirements of subsections (B)(13) and (D) of this section shall not apply to those parcels which are less than 0.3 acres in size, where the parcel boundaries were approved in a division of land before December 31, 1990. If the lot document approving a division of land establishes different coverage and setback standards from those in subsections (B)(13) and (D) of this section, the standards on the document approving the division of land shall control. Lot coverage and setback standards of this section may be waived by the decisionmaking body if necessary to accommodate actual development legally established on the affected property. Land division must occur according to the subdivision or short shoreline stabilization measures.

4. Land divisions creating four (4) or fewer lots are not required to provide public access;

5. In land divisions creating five (5) or more lots, public access easements or common areas, consistent with the provisions of SJCC 18.50.120, and other conditions shall be noted on the deed and/or on the face of the plat at the time of approval. (RCW 58.17.110);

6. If any docks are proposed, shoreline land divisions shall be required to provide community docks rather than individual private docks.

In all land divisions that yield five (5) or more lots, one (1) of the following access standards shall be met:

1. An easement shall be established to provide all lots usable physical access to the OHWM; or

2. A common area 75 feet deep measured landward from the OHWM shall be established along the entire waterfront of the property to be developed. A minimum of one and one-quarter acres within the shoreline jurisdiction shall be provided for each residential unit or lot to be located within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of lots or units within the shoreline jurisdiction; or

3. At least 20 percent of the area within the shoreline jurisdiction shall be designated as common area. A minimum of two acres within the shoreline jurisdiction shall be provided for each lot or unit to be located.

9. Land division applications for non-bedrock lots shall provide a geotechnical evaluation, prepared by a qualified professional identifying any setbacks necessary or other conditions to allow for natural erosive processes to occur over the life of the proposed development (75 years) without requiring structural shoreline stabilization measures;

10. Land divisions creating four (4) or fewer lots are not required to provide public access;

11. In land divisions creating five (5) or more lots, public/community access easements or common areas, consistent with the provisions of SJCC 18.50.120, and other conditions shall be noted on the deed and/or on the face of the plat at the time of approval. (RCW 58.17.110);

12. If any docks are proposed, shoreline land divisions shall be required to provide community docks rather than individual private docks.

B. In all land divisions that yield five (5) or more lots, one (1) of the following public/community access standards shall be met:

1. An easement shall be established to provide all lots usable physical access to the OHWM; or

seeps, ponds, wetlands;

v. Areas with slumps, landslides or ongoing soil erosion;

w. Areas of unfractured bedrock;

x. Rocky balds, meadows, fields with wildflowers/native grass or Garry Oak.
subdivision standards in the County code or by condominium standards under state law.

C. Prohibited Uses and Activities.
1. New residential structures and accessory structures are prohibited over water or floating on the water, except as specifically allowed in this chapter.
2. Subdivisions and nonexempt residential structures, including accessory uses, which will exceed the physical capabilities of the proposed site to absorb the resulting impacts shall not be approved.
3. Residential development within floodways, wetlands, and other hazardous areas shall only be allowed subject to the regulations of the environmentally sensitive areas or environmentally sensitive areas overlay district as specified in this code (SJCC 18.30.110 through 18.30.160).
4. The creation of landfills in water bodies or their associated wetlands for the purpose of residential development is prohibited.

D. Regulations – Setback Standards.
1. All structures shall be set back from water bodies and associated wetlands sufficiently to protect natural resources and systems from degradation.
   a. All structures shall be set back a safe distance behind the tops of feeder bluffs, as determined by a licensed geotechnical engineer.
   b. Every residential structure built at a beach site shall be located landward of the berm or bank, as dictated by the topography, to assure protection of within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of units within the shoreline jurisdiction.
C. In all land divisions that yield five (5) or more lots, if tidelands are privately owned, the area between ordinary high tide and the line of extreme low tide shall be dedicated to all property owners in the development as a part of a shoreline access easement or a common area.
D. As residential development is not allowed on common area lots, lots designated as common area shall not be counted as contributing to an area’s overall density.
E. Land division of parcels with designation of natural is prohibited.
F. In rare instances, land division that would exceed maximum density may be allowed by conditional use if the following circumstances are demonstrated by the owners:
   1. The property is not located within the natural shoreline designation;
   2. The property is occupied by individually owned single-family dwelling units, whose numbers exceed the allowable maximum residential density standards and all such units are documented to have existed on the property before May 28, 1976;
   3. The dwelling units have been maintained on the site consistent with nonconforming use standards in SJCC 18.50.070 and have not been abandoned since May 28, 1976;
   4. There is evidence of an adequate approved water supply for each unit.

2. A common area 75 feet deep measured landward from the OHWM shall be established along the entire waterfront of the property to be developed. A minimum of one and one-quarter acres within shoreline jurisdiction shall be provided for each residential unit or lot to be located within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of lots or units within the shoreline jurisdiction.
3. At least 20 percent of the area within the shoreline jurisdiction shall be designated as common area. A minimum of two acres within the shoreline jurisdiction shall be provided for each lot or unit to be located within the shoreline jurisdiction. This is not a minimum lot size, however, and shall not preclude clustering of units within the shoreline jurisdiction.
C. In all land divisions that yield five (5) or more lots, if tidelands are privately owned, the area between ordinary high tide and the line of extreme low tide shall be dedicated to all property owners in the development as a part of a shoreline access easement or a common area.
D. As residential development is not allowed on common area lots, lots designated as common area shall not be counted as contributing to an area’s overall density.
E. Land division of parcels with designation of natural is prohibited.
F. In rare instances, land division that would exceed maximum density may be allowed by a conditional use permit if the following
2. Residential structures shall be located behind the treeline and set back a minimum of 50 feet from the OHWM, top of bank or berm, whichever is greater. Residential structures are also subject to the following:
   a. Setbacks from wetlands associated with shorelines (Chapter 173-22 WAC) shall be measured from the natural edge of these features.
   b. If there is no natural screening or if the shoreline area is cleared so as to preclude natural screening before a building permit application is approved, then a minimum setback of 100 feet from the OHWM or from the top of bank or berm, whichever is greater, will apply regardless of the environment designation.
   c. A setback less than the minimums specified above may be authorized by the administrator only if it will result in a lesser environmental or visual impact.
   d. If existing houses on adjoining waterfront lots are closer than the specified minimum setback, a lesser setback may be authorized by the administrator. This setback may be equal to the average setback of existing houses on adjacent lots, if the minimum setback would cause obstruction of views from the building site due to the location of existing houses and if consistent with other applicable regulations in this master program.

| accepted in writing by the County Environmental Health Officer; |  
|  
| 5. There is an approved septic system for each unit or there is documentation that a functioning septic system exists to serve each unit and that adequate drainfield reserve area exists; and |  
| 6. Complies with the general shoreline conditional use provisions of SJCC 18.80.110(J). |

G. Any conditional use permit granted under the provisions in subsection (F) of this section shall include the following conditions:
1. Conditional use permit approval shall not itself constitute a legal division of the land. The property owners must legally divide the entire property simultaneously. Such division must be initiated with the submission of a complete land division application within two years of the effective date of the conditional use permit.
2. Residential density on the property shall not exceed that which currently exists.
3. Residential use and development shall be restricted to single-family units and residential appurtenances only.

Circumstances are demonstrated by the owners:
1. The property is not located within the natural shoreline designation;
2. The property is occupied by individually owned single-family dwelling units, whose numbers exceed the allowable maximum residential density standards and all such units are documented to have existed on the property before May 28, 1976;
3. The dwelling units have been maintained on the site consistent with nonconforming use standards in SJCC 18.50.070 and have not been abandoned since May 28, 1976;
4. There is evidence of an adequate approved water supply for each unit accepted in writing by the County Environmental Health Officer;
5. There is an approved septic system for each unit or there is documentation that a functioning septic system exists to serve each unit and that adequate drainfield reserve area exists; and
6. Complies with the general shoreline conditional use provisions of SJCC 18.80.110(J).
e. Nonconforming single-family residential development, made nonconforming by the above setback regulation in 1991, shall be subject to the standards contained in Chapter 173–27 WAC (Permits for Development on Shorelines of the State); provided, that:

i. A nonconforming residence of 2,000 square feet or smaller may be expanded by an amount equal to the existing floor area of the residence as long as the resulting total floor area does not exceed 2,000 square feet, or the existing floor area may be increased by an amount not to exceed 25 percent, whichever is larger. A nonconforming residence with an existing floor area in excess of 2,000 square feet may be expanded by no more than 25 percent of the total existing floor area. In no case shall any portion of the expansion be located seaward of the most seaward point of the existing residence. For the purposes of this computation, floor area shall include all areas enclosed within the walls of the house and all attached decks and porches.

ii. Additions to nonconforming residences shall conform to all other applicable shoreline regulations as well as to other applicable County and state regulations.

iii. A nonconforming residence may application within two years of the effective date of the conditional use permit.

2. Residential density on the property shall not exceed that which currently exists.

3. Residential use and development shall be restricted to single-family units and residential appurtenances only.
be expanded incrementally if the ultimate expansion does not exceed the maximum allowable increase in floor area over that existing on the effective date of this regulation.

iv. For purposes of this section, “residence” shall mean the primary residential structure on the property. Accessory dwelling units and other accessory residential structures are not included.

3. Building setbacks from shorelines must be established as conditions of preliminary plat approval in all new waterfront subdivisions and short subdivisions. A plat restriction must specify the required setbacks and all building setbacks must be shown on the face of the plat. Once a building setback line is determined, removal of trees seaward of the setback line shall be expressly limited in plat restrictions. Tree removal restrictions in subsection (B)(8) of this section will also apply.

E. Regulations – Accessory Use.

1. Accessory structures which are not water-dependent shall not be permitted seaward of the most landward extent of the residence. If this regulation would result in greater adverse impacts on shoreline features or resources or would conflict with other applicable regulations of this master program, the administrator may authorize by written findings and determination an alternative location without requiring a shoreline variance permit.
2. The following accessory uses and developments, when associated with an exempt single-family residence, are defined as “normal appurtenances” and are therefore exempt as provided in SJCC 18.50.020(F)(2)(g):
   a. One garage building and/or one accessory dwelling unit each of which covers no more than 1,000 square feet of land area and is no taller than 16 feet above existing grade as measured along a plumb line at any point; or a combination of these uses in a single structure no larger than 2,000 square feet which is no taller than 16 feet above existing grade as measured along a plumb line at any point; or a combination of these uses in a single structure no larger than 1,000 square feet on each floor and no taller than 28 feet above existing grade. In no case shall an accessory dwelling unit exceed 1,000 square feet;
   b. No more than two separate outbuildings no larger than 200 square feet each, no taller than 16 feet above average grade level, and not used for human habitation; provided, that in addition, one outbuilding for any other residential purpose may be substituted for an accessory dwelling unit or garage if the structures do not exceed size limits specified in subsection (E)(2)(a) of this section; and
   c. Grading (excavation and fill) of up to the maximum cubic yardage allowed by state law (see WAC 173–27–040(g)) for foundations and a
driveway, plus any additional grading necessary for an individual on-site sewage disposal system.

3. A shoreline substantial development permit shall be required for construction of any nonexempt accessory development on a single parcel within 200 feet of the ordinary high water mark. Construction of an accessory dwelling unit that will be used for vacation rental (short-term) or long-term rental is not exempt. Any grading in excess of the amount exempt under SJCC 18.50.020(F)(2)(g) shall be subject to substantial development permit requirements.

4. Accessory structures which are not specified in this section as normal appurtenances to a residential use shall be permitted only as conditional uses.

5. Vacation rental or transient occupancy of a single-family residence or an accessory dwelling unit is subject to the applicable provisions of this section, the performance standards in SJCC 18.40.270 and the permit requirements specified in UDC Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040.

6. Every accessory dwelling unit in the shoreline must be located in a way that maintains the single-family appearance and shall also meet the performance standards for accessory dwelling units set forth in SJCC 18.40.240.


1. Opportunities for physical and visual public access to the shoreline shall be considered in review of residential subdivisions and nonexempt
developments. Physical public access shall be based on an adopted County public access plan.

2. Land divisions and multiple-unit or multifamily unit developments shall provide a usable shoreline common area of reasonable size for the number of dwelling units in the development. In addition to the designated common area(s), there shall be appropriate easements dedicated to provide land access to the common area(s) to all property owners within the development. In all new subdivisions, standards for care and maintenance of shoreline common areas shall appear on the face of the plat and shall be consistent with the provisions of this SMP.

   a. If tidelands are privately owned, the area between ordinary high tide and the line of extreme low tide shall be dedicated to all property owners in the development as a part of the common area.

   b. In locations where, as a result of topography or sensitive features of the site, such as natural marshes, swamps, or unstable, eroding bluffs, the application of this provision would not be feasible or would create a potential hazard, the administrator may authorize the designation of a different waterfront common area.

G. Houseboats.

   1. Location. Houseboats are prohibited on state-owned aquatic land and shall be allowed only within a portion of a marina located within the shoreline jurisdiction of an activity center which has been granted
shoreline substantial development permit approval for houseboat moorages. Houseboat moorage spaces shall be limited to those areas within a marina specifically identified on approved project plans for this use and the allotted area shall not exceed 10 percent of overall moorage space. The maximum square footage and height of any houseboat unit shall be specified in the project approval and shall minimize adverse impacts on the scenic qualities of the shoreline. Individual houseboat moorages are prohibited.

2. **Standards.** Houseboat moorage proposals shall demonstrate that:
   a. Houseboat units will be connected to an approved sanitary sewer or other approved upland waste disposal system with demonstrated capacity to serve the number of units proposed, and that greywater will also be discharged to such a system;
   b. Houseboat units will be connected to an approved potable water supply with demonstrated capacity to serve the number of units proposed;
   c. Materials used in the maintenance of houseboats moored at the marina will not result in contaminants or debris entering the water; and
   d. Location of the houseboat area shall ensure that at least six feet of water depth shall be maintained at low water and that grounding at low tides will be prevented.

H. **Regulations by Environment.**
   1. Urban. Residential development shall be
<table>
<thead>
<tr>
<th>Environmental Type</th>
<th>Permitted Development</th>
</tr>
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<tbody>
<tr>
<td>Urban</td>
<td>Residential development shall be permitted in the urban environment subject to the policies and regulations of this SMP.</td>
</tr>
<tr>
<td>Rural</td>
<td>Residential development shall be permitted in the rural environment subject to the policies and regulations of this SMP.</td>
</tr>
<tr>
<td>Rural Residential</td>
<td>Same as rural.</td>
</tr>
<tr>
<td>Rural Farm-Forest</td>
<td>Same as rural.</td>
</tr>
<tr>
<td>Conservancy</td>
<td>Residential development shall be permitted in the conservancy environment subject to the policies and regulations contained in this master program. No residential land division or other form of multiple-unit residential development shall be allowed unless conservancy values are fully recognized and protected.</td>
</tr>
<tr>
<td>Natural</td>
<td>Residential development shall not be permitted in the natural environment; provided, that the owner of an existing parcel of record may construct a single-family residence and appurtenant structures for his or her own use. Vacation (short-term) rental of a single-family residence or accessory dwelling unit is prohibited. Land division is prohibited. Alteration of natural topography and vegetation shall be restricted to that which is absolutely necessary for the construction of the structure(s) and access to them. Alteration of the land-water interface is prohibited.</td>
</tr>
<tr>
<td>Aquatic</td>
<td>Residential development, except for permitted houseboats, is prohibited in the aquatic environment.</td>
</tr>
<tr>
<td>Eastsound Urban</td>
<td>Same as urban.</td>
</tr>
</tbody>
</table>

Multifamily developments shall include...
provisions for public shoreline access.

9. **Eastsound Residential District.** Residential development is allowed subject to this master program and the applicable provisions of the Eastsound Subarea Plan. Multifamily developments shall include provision for public shoreline access.

10. **Eastsound Marina District.** Residential development is allowed in accordance with the marina district section of the Eastsound Subarea Plan.

11. **Eastsound Conservancy.** Same as conservancy.

12. **Eastsound Natural.** Same as natural.

13. **Shaw Rural.** Same as rural, except that residential transient accommodations (vacation rental of a residence or ADU) by themselves or in combination with any commercial use shall be prohibited.

14. **Shaw Rural Farm-Forest.** Same as rural farm-forest, except that residential transient accommodations (vacation rental of a residence or ADU) by themselves or in combination with any commercial use shall be prohibited.

15. **Shaw Conservancy.** Same as conservancy, except that residential transient accommodations (vacation rental of a residence or ADU) by themselves or in combination with any commercial use shall be prohibited.

16. **Shaw Natural.** Same as natural. (Ord. 7-2005 § 15 & 16; Ord. 21–2002 § 6; Res. 5–2002 §§ 2, 3; Ord. 12–2000 § 2; Res. 145–1998; Ord. 2–1998 Exh. B § 5.5.18)
### RCW 90.58/WAC 173-26/WAC 173-27

<table>
<thead>
<tr>
<th>Current Code</th>
<th>Planning Commission Approved Text</th>
<th>Staff Recommendations</th>
</tr>
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</table>

#### F. Exemptions from Substantial Development Permit Requirements.

1. Exemption from the substantial development permit requirements under subsection (G) of this section does not constitute an exemption from the policies of the Shoreline Management Act, the policies and regulations of this SMP, or other applicable local, state, or federal permit requirements. Exemption procedures are provided in SICC 18.80.110(F). Exemptions shall be construed narrowly in accordance with WAC 173–27–040(1)(a). Statements of exemption are required for certain developments; see SICC 18.80.110. A use classified as a conditional use or a use not named or contemplated in this chapter is allowed only as a conditional use and is ineligible for shoreline permit exemption.

2. The following, as defined in WAC 173–27–040, are not considered to be substantial developments:
   - **a.** Any development of which the total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law, WAC 173–27–040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.
   - **b.** Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or the elements, subject to WAC 173–27–040(2)(b).
   - **c.** Construction of the normal protective bulkhead.

#### E. Exemptions from Shoreline Substantial Development Permit Requirements.

1. Exemption from the shoreline substantial development permit requirements under subsection (E) of this section does not constitute an exemption from the policies of the SMA Shoreline Management Act, the policies and regulations of this SMP, or other applicable county local, state, or federal permit requirements.

2. Exemption procedures are provided in SICC 18.80.110(F). Exemptions shall be construed narrowly in accordance with WAC 173–27–040(1)(a). If any part of a project is not eligible for an exemption a shoreline substantial development permit is required for the entire project.

3. Certificates of exemption are required for certain developments; see SICC 18.50.020(G). A use classified as a conditional use or a use not named or contemplated in this chapter is allowed only as a conditional use permit and is ineligible for a shoreline substantial development permit exemption.

4. The following developments, as defined in WAC 173–27–040, are not considered to be shoreline substantial developments and are required to obtain a certificate of exemption:
   - **a.** Any development of which the total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law ($6,416 as of October 2012), WAC 173–27–
common to single-family residences subject to WAC 173–27–040(2)(c).

d. Emergency construction necessary to protect property from damage by the elements, in accordance with WAC 173–27–040(2)(d).

e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. However, a feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which result from normal cultivation, shall not be considered normal or necessary farming or ranching activities. For the purposes of this chapter, a "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations; or barns or similar agricultural structures on wetlands (WAC 173–27–040(2)(e)).

f. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys. WAC 173–27–040(2)(f).

g. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence does not exceed a height of 35 feet above average grade level, except as provided in this SMP, and which meets all requirements of the Act and this SMP, as specified in WAC 173–27–040(2)(g).

h. 040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.

i. Normal maintenance or repair of existing structures or developments existing or vested before the effective date of this SMP, including those damaged by fire, accident, or the elements, subject to WAC 173–27–040(2)(b).

j. Construction of a protective structural shoreline stabilization measure bulkhead common to associated with single-family residences existing or vested before the effective date of the SMP, subject to WAC 173–27–040(2)(c).

k. Emergency construction necessary to protect property from damage by the elements, in accordance with WAC 173–27–040(2)(d).

l. Flooding or other seasonal events that can be anticipated and may occur but are not immediately imminent are not an emergency.

m. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. However, a feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which result from normal cultivation, shall not be considered normal or necessary farming or ranching activities.

n. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys.
development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

(c) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further seaward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

(d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, noncommercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences, as specified in WAC 173–27–040(2)(h). This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed $2,500; or

ii. In fresh waters, the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this code.

i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored ground water from the irrigation of lands (WAC 173–27–040(2)(j)).

j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water (WAC 173–27–040(2)(j)).

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system (WAC 173–27–040(2)(k)).

l. Site exploration and investigation activities that are prerequisite to preparation of an application to head gates, pumping facilities, and irrigation channels. However, a feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling [other than that which the result from of normal cultivation], shall not be considered normal or necessary farming or ranching activities. For the purposes of this chapter, a "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations; or barns or similar agricultural structures on wetlands (WAC 173–27–040(2)(l)).

f. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys. WAC 173–27–040(2)(f).

g. Construction of a single-family residence for the use of the beneficial owner and their family is exempt from shoreline substantial development permit requirements in accordance with WAC 173–27–040(2)(g). Any other single-family residential construction is subject to shoreline substantial development permit requirements. For the purposes of this MMP, the beneficial owner is an individual who is a member of a family corporation, trust, or partnership, and who is related by blood, adoption, marriage or domestic partnership to all other members of the corporation, trust or partnership. In no case shall construction of more than one single-family residence on a single lot owned by a family be exempt from shoreline substantial development permit requirements. Normal residential appurtenances that are exempt are listed in section (f) below.

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, noncommercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences, as specified in WAC 173–27–040(2)(h). This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed $2,500; or

ii. In fresh waters, the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development.


Construction of a single-family residence for the use of the beneficial owner and/or their family is exempt from shoreline substantial development permit requirements in accordance with WAC 173–27–040(2)(g). Any other single-family residential construction is subject to shoreline substantial development permit requirements. For the purposes of this MMP, the beneficial owner is an individual who is a member of a family corporation, trust, or partnership, and who is related by blood, adoption, marriage or domestic partnership to all other members of the corporation, trust or partnership. In no case shall construction of more than one single-family residence on a single lot owned by a family be exempt from shoreline substantial development permit requirements. Normal residential appurtenances that are exempt are listed in section (f) below.

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, noncommercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences, as specified in WAC 173–27–040(2)(h). This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed $2,500; or

ii. In fresh waters, the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development.
for development authority under this code if:

i. The activity does not interfere with the normal public use of the surface waters;

ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

iv. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the County to ensure that the site is restored to pre-existing condition; and

v. The activity is not subject to the permit requirements of RCW 90.58.550 (WAC 173–27–040(2)(m)).

m. The process of removing or controlling an aquatic noxious weed, as defined in state law, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the U.S. Department of Agriculture or the department jointly with other state agencies under Chapter 43.21C RCW (WAC 173–27–040(2)(n)).

n. Watershed restoration projects as defined in Chapter 90.58 RCW, in accordance with WAC 173–27–040(2)(o).

o. A public or private project that is designed to improve fish or wildlife habitat or fish passage, as provided in WAC 173–27–040(2)(p), when all of the following apply:

i. The project has been approved by the

permit requirements. For the purposes of this SMP, the beneficial owner is an individual who is a member of a family corporation, trust, or partnership, and who is related by blood, adoption, marriage or domestic partnership to all other members of the corporation, trust or partnership. In no case shall construction of more than one single-family residence on a single lot owned by a family be exempt from shoreline substantial development permit requirements. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence does not exceed a height of 35 feet above average grade, and which meets all requirements of the Act and this SMP, as specified in WAC 173–27–040(2)(l), Normal residential appurtenances that are exempt are listed in section (f) below.

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, noncommercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences, as specified in WAC 173–27–040(2)(h). This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed $2,500; or

i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored ground water from the irrigation of lands (WAC 173–27–040(2)(j)).

j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water (WAC 173–27–040(2)(k)).

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed, or utilized primarily as part of an agricultural drainage or diking system (WAC 173–27–040(2)(l)).

I. Site exploration and investigation activities that are prerequisite to preparation of an application for development authority under the SMP if:

i. The activity does not interfere with the normal public use of the surface waters;

ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

iv. A private entity seeking development authorization under this section first posts a provides evidence of financial responsibility to the County to ensure that the site is restored
within five years of completion of the prior construction having a fair market value not exceeding two thousand five hundred dollars, but if subsequent construction having a fair market value exceeding ten thousand dollars, and

(ii) In fresh waters, the fair market value of the dock does not exceed two thousand five hundred dollars;

(i) In salt waters, the fair market value of the dock and its appurtenances. This exception applies if either:

(ii) In fresh waters the fair market value of the dock or its appurtenances does not exceed two thousand five hundred dollars;

(i) In salt waters, the fair market value of the dock and its appurtenances.

(h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

(i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or

(ii) In fresh waters the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction has received hydraulic project approval by the WDFW pursuant to Chapter 75.20 RCW; and

(iii) The County has determined that the project is substantially consistent with this master program.


Washington Department of Fish and Wildlife (WDFW);

ii. In fresh waters, the fair market value of the dock does not exceed $10,000, but if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this code.

i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored ground water from the irrigation of lands (WAC 173–27–040(2)(i)).

j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water (WAC 173–27–040(2)(j)).

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system (WAC 173–27–040(2)(k)).

l. Site exploration and investigation activities that are prerequisite to pre-existing condition; and

v. The activity is not subject to the permit requirements of RCW 90.58.550 (WAC 173–27–040(2)(m)).

m. The process of removing or controlling an aquatic noxious weed, as defined in state law, through the use of herbicide or other treatment methods that are recommended in a final environmental impact statement published by the U.S. Department of Agriculture or the department jointly with other state agencies under Chapter 43.21C RCW (WAC 173–27–040(2)(i)). In order to qualify as exempt, noxious weed control must meet the following requirements:

i. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where a water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.

ii. Aquatic weeds will be controlled by hand pulling or mechanical harvesting that does not disturb the sea bed, and/or entail placement of aqua-screens. In addition, if the action is being proposed for the retention of existing water depth for navigation, it shall be considered normal maintenance and repair.

iii. The control of aquatic weeds by derooting, rotovating, or other method that disturbs the sea bed or benthos in order to maintain the pre-existing water depth for navigation in an area covered by a previous permit shall be considered as normal maintenance and repair. The control of aquatic weeds by similar methods in any other circumstance shall require a shoreline substantial development...
construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above;

(i) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;
(j) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
(k) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
(l) Any project with a certification from the governor pursuant to chapter 80.50 RCW;
(m) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter;

preparation of an application for development authority authorization under the SMP this code if:

i. The activity does not interfere with the normal public use of the surface waters;

ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

iv. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the County to ensure that the site is restored to pre-existing condition; and

v. The activity is not subject to the permit requirements of RCW 90.58.350 (WAC 173–27–040(2)(m)).

m. The process of removing or controlling an aquatic noxious weed, as defined in state law, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by in a final environmental impact

iv. Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control complies with all state rules and regulations.

n. Watershed restoration projects as defined in Chapter 90.58 RCW, in accordance with WAC 173–27–040(2)(o).

o. A public or private project that is designed to improve fish or wildlife habitat or fish passage, as provided in WAC 173–27–040(2)(p), when all of the following apply:

i. The project has been approved by the Washington Department of Fish and Wildlife (WDFW);

ii. The project has received hydraulic project approval by the WDFW pursuant to Chapter 75.20 RCW;

iii. The County has determined that the project is substantially consistent with this SMP.


F. Exemptions from Substantial Development Permit Requirements – Residential Appurtenances. Normal appurtenances to a single-family residence are included in the shoreline substantial development permit exemption provided in subsection (F)(2)(g) of this section. Normal appurtenances must be connected to the use and enjoyment of a single family residence and include, but are not limited to, one garage, one accessory dwelling unit, attached decks, a patio that has a value less than the legal threshold for shoreline substantial development permits, boathouses served by
statement published by the U.S. Department of Agriculture or the department jointly with other state agencies under Chapter 43.21C RCW (WAC 173–27–040(2)(n)). In order to qualify as exempt, noxious weed control must meet the following requirements:

i. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where a water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.

ii. Aquatic weeds will be controlled by hand pulling or mechanical harvesting that does not disturb the sea bed, and/or entail placement of aqua-screens. In addition, if the action is being proposed for the retention of existing water depth for navigation, it shall be considered normal maintenance and repair.

iii. The control of aquatic weeds by derooting, rototilling, or other method that disturbs the sea bed or benthos in order to maintain the pre-existing water depth for navigation in an area covered by a previous permit shall be considered as normal maintenance and repair. The control of aquatic weeds by derooting, rototilling, or other method that disturbs the sea bed or benthos in order to maintain the pre-existing water depth for navigation in an area covered by a previous permit shall be considered as normal maintenance and repair.

Normal appurtenance exemptions also include:

1. Grading of less than 250 cubic yards or removal of native vegetation that is not within the building setback or critical area buffer when necessary to accommodate associated with the construction or modification of a single-family residence.

2. Construction or renovation of structures with fair market value of less than the maximum value allowed by Chapter 90.58 RCW and WAC 173–27–040(2)(a)($6,416 October 2012).

3. Pedestrian pathways, ramps and water front access stairs; provided, that a written certificate of exemption is obtained; and all of the following criteria are met:
   a. The total cost or fair market value of the improvements does not exceed the maximum allowed by state law;
   b. Roofs or roof covering materials such as awnings are prohibited;
   c. All materials must be finished in subdued natural earth colors;
   d. No construction or placement seaward or below the OHWM is allowed unless the stairs or ramp is connected to an exempt or permitted dock;
   e. Pedestrian pathways, waterfront access stairs or ramps are allowed
v. Similar methods in any other circumstance shall require a shoreline substantial development permit.

iv. Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control complies with all state rules and regulations.

n. Watershed restoration projects as defined in Chapter 90.58 RCW, in accordance with WAC 173–27–040(2)(o).

o. A public or private project that is designed to improve fish or wildlife habitat or fish passage, as provided in WAC 173–27–040(2)(p), when all of the following apply:
   i. The project has been approved by the Washington Department of Fish and Wildlife (WDFW);
   ii. The project has received hydraulic project approval by the WDFW pursuant to Chapter 75.20 RCW; and
   iii. The County has determined that the project is substantially consistent with this SMP master program.


Exemptions from Substantial Development Permit Requirements – Residential Appurtenances. Normal appurtenances to a single-family residence are included in the

when no other shoreline access exists or is reasonably feasible;

f. The maximum vertical height of the structure is 15 feet and the maximum width of the structure is three feet. One intermediate landing or platform with a maximum size of three feet by three feet is allowed. Stairways that are proposed for exposed areas of the shoreline shall not be located on rock faces or bluffs in excess of 172 percent average slope (i.e., a maximum 60-degree angle);

g. The project complies with bank stability requirements of SJCC 18.50.080(10) geologically hazardous areas.
section. “Normal appurtenances” means a structure that is necessarily connected to the use and enjoyment of a single-family residence and may include but are not limited to, a garage, one accessory dwelling unit, attached decks, a patio, boathouses served by marine railways, a driveway, on-site sewage disposal system, utilities, fences, antennas, satellite dishes, attached decks, a patio, boathouses served by marine railways, a driveway, on-site sewage disposal system, utilities, fences, antennas, satellite dishes, less than one meter in diameter, and solar arrays and wind powered generators serving one single-family residence. For the “normal appurtenance” exemption to apply, the applicant must submit a certificate the structure will be constructed by an owner, lessee, or contract purchaser of a single-family residence for his or her own use, or the use of his or her family, or a person providing health care to the owner or the owner’s family.

Normal appurtenances exemptions also include:
1. Grading of less than 250 cubic yards or removal of native vegetation that is not within the building setback or critical area buffer 50 feet of the OHWM or the bank, whichever is greater, when associated with the construction or modification of a single-family residence.
2. Construction or renovation of structures with fair market value of less than the maximum value allowed by Chapter 90.58 RCW and WAC 173–27–040(2)(a)($6,416 October 2012).
3. Beach access structures. Pedestrian pathways, ramps and stairs, provided,
that a written statement certificate of exemption is obtained; and provided that all of the following criteria are met:

a. The total cost or fair market value of the improvements does not exceed the maximum allowed by state law;

b. No roofs or roof covering materials such as awnings are prohibited permitted,

c. All materials must be finished in subdued natural earth colors;

d. No construction or placement seaward or below the ordinary high water mark (OHWM) is permitted unless the stairs or ramp is connected to an exempt or permitted dock;

e. Pedestrian pathways, stairs or ramps are allowed when no other beach shoreline access exists or is reasonably feasible;

f. The maximum vertical height of the structure is 15 feet and the maximum width of the structure is three feet. One intermediate landing or platform with a maximum size of three feet by three feet is allowed. Stairways that are proposed for exposed areas of the shoreline shall not be located on rock faces or bluffs in excess of 172 percent average slope (i.e., a maximum 60-degree angle);

g. The project complies with bank stability requirements of SJCC 18.50.080(D) geologically hazardous areas. §30(8)(2) shall be complied with.